THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 16975 of 2007

Date:13-08-2007

Between:

Pepalla Rajani .. **PETITIONER**

AND

The Union Bank of India and another

..

RESPONDENTS

ORDER:

The petitioner seeks to issue a writ of mandamus to declare

the action of the 2nd respondent in issuing the notice, dated 02.07.2007 putting the dry land of the petitioner in an extent of Ac.0.32 cents in R.S.No.56/2B of Chillakallu village, Jaggaiahpet mandal, Krishna District to public auction to be conducted on 16.08.2007, as illegal and arbitrary.

It is the case of the petitioner that she is the owner of an extent of Ac.0.32 cents in R.S.No.56/2B of Chillakallu village, Jaggaiahpet mandal, Krishna District and the said property was given as collateral security in favour of the M/s. Gayatri Fashion Footwear by hypothecating/mortgating the said property. As the principal borrower failed to pay the loan amount advanced by the first respondent, the first respondent initiated auction under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the second respondent issued tender notification, dated 02.07.2007 stating that an amount of Rs.5,82,128/- is due and is payable by the principal debtor and the petitioner herein jointly and severally and accordingly tenders have been called for to be received on or before 14.08.2007 fixing the date of auction as 16.08.2007 for the sale of the said property of the petitioner.

It is stated that the property of the petitioner is purely agricultural land, which cannot be sold under the said Act.

On the other hand, the learned standing counsel for the respondents submits that it is a vacant site and not an agricultural land and therefore, there cannot be any legal objection for the sale of the said land.

Without expressing any opinion with regard to the rival

contentions, as the petitioner came forward to clear of all the outstanding dues in three equal monthly instalments, it is just and proper to dispose of the writ petition by granting three monthly instalments to the petitioner.

Having regard to the facts of the case, the writ petition is disposed of directing the respondents not to sell the land of the petitioner pursuant to the impugned tender notification subject to the condition of the petitioner deposits 1/3rd of the demanded amount within one month from today, another 1/3rd of the demanded amount within two months from today and the remaining 1/3rd of the demanded amount within three months from today. If the petitioner fails to pay any of the instalments, it is open for the respondents to proceed with the sale of the said property of the petitioner. No costs.

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V.ESWARAIAH, J.

Date:13.08.2007.
Ccm